

APR 28 10 09 AM '00 ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)
CHIEF CLERK'S OFFICE)

Docket No. 00-0259

Petition for expedited approval of)
implementation of a market-based)
alternative tariff, to become effective on or)
before May 1, 2000, pursuant to Section 16-)
112 of the Public Utilities Act.)

PEOPLES ENERGY SERVICES CORPORATION
REPLY TO BRIEFS ON EXCEPTIONS

Pursuant to 83 Illinois Administrative Code Section 200.830, Peoples Energy Services Corporation ("PE Services"), by one of its attorneys, Timothy P. Walsh, hereby submits this Reply to Briefs on Exceptions ("BOE") to the Hearing Examiner's Proposed Order ("HEPO") in the above-entitled cause which was served on April 21, 2000. PE Services served its BOE on April 24, 2000. There is nothing in the BOEs of the other parties that detracts from PE Services' positions taken in its BOE. PE Services relies on its arguments in its BOE.

PE Services continues to support the Commonwealth Edison Company's ("ComEd") market-based alternative tariff ("Rider PPO-MI"). In that vein, PE Services is extremely concerned with any modification to ComEd's proposal that prevents ComEd from implementing its Rider PPO-MI. ComEd in its BOE only found one modification the HEPO adopts that it cannot accept. ComEd BOE at 2. Therefore, that modification, which would require ComEd to allow customers to choose Rider PPO-NFF subsequent to implementation of Rider PPO-MI and require the Rider PPO-NFF to continue indefinitely, is of utmost concern to PE Services as explained in detail below. HEPO at 25. PE Services also has a lesser but important concern with three other issues as follows: 1) that the Post Exceptions Proposed Order ("PEPO") adopt the MidAmerican Energy Company ("MEC")-CMS Marketing, Services and Trading's ("CMS Marketing")

transition provision; 2) that the PEPO adopt an appropriate Rider PPO-MI sunset provision; and, 3) that the PEPO offer an appropriate opportunity for continuing the development of a market based alternative and time-line to have a market based alternate tariff in place before the Rider PPO-MI terminates. PE Services stands on its BOE with respect to the transition provision, but will discuss the remaining two issues following its discussion of the critical Rider PPO-NFF issue.

ComEd emphatically states it will not implement the Rider PPO-MI while the Commission insists the Rider PPO-NFF remain in place indefinitely. ComEd BOE at 2. Consequently, it is imperative that the PEPO eliminates such requirement. ComEd states that failure to cancel the Rider PPO-NFF is anti-competitive, counterproductive and violates Section 16-112 of the Act. *Id.* at 3-4. PE Services generally supports ComEd's assertions and more specifically, with respect to the HEPO's position forcing ComEd to keep Rider PPO-NFF in place, believes that requirement would violate Section 16-112(a) of the Act. Section 16-112(a) of the Act requires, in pertinent part, that the market value be determined in accordance with either (i) a tariff filed pursuant to Article IX based on a market index, or (ii) if no such tariff is in place based on the NFF process. 220 ILCS 5/16-112(a) (emphasis added). Because, ComEd will not accept this modification, and it has demonstrated why the modification is inappropriate, and it will violate Section 16-112(a) of the Act, the PEPO should amend the HEPO language in accordance with ComEd's BOE.

With respect to PE Services' remaining two issues, PE Services first addresses the sunset provision. Parties both supporting and opposing ComEd's Petition have suggested that if the Commission approves the Petition it include a sunset provision. ComEd suggests that it cannot accept a sunset provision. ComEd BOE at 2. But in essence ComEd accepts a sunset provision by providing for hearings on the continuation of the Rider PPO-MI to allow a final order on May 2001. *Id.* at 5. PE Services believes the parties and customers are best served if the PEPO does not

modify the HEPO's sunset provision effective with the customers' May 2001 billing period. HEPO at 25. The HEPO raises valid concerns about the permanency of Rider PPO-MI and the sunset provision offers a valuable opportunity to allow review of the Rider PPO-MI that is admittedly being implemented on short notice.

PE Services' final issue is determining the best process to continue the discussion and review of market alternatives. Several parties have suggested that Staff schedule and moderate workshops. These parties partially base their proposal on the need for uniformity throughout the state. However, since under Section 16-112(m) of the Act no electric utility can presently be forced to adopt a market-based tariff, uniformity is an unlikely result of workshops. 220 ILCS 5/16-112(m). On the other hand, ComEd in its BOE has offered a workable alternative to parties' immediate concern with the ComEd Rider PPO-MI. ComEd's suggested process includes the following: 1) the Commission enter an interim order in this docket, directing ComEd to file a report evaluating the effect of implementing its Rider PPO-MI; 2) Staff schedule workshops in the fall of 2000; 3) the Hearing Examiner schedule hearings, if required, on the continuation or modification of Rider PPO-MI in February or March 2001; and, 4) the Commission issue a final order in May 2001. PE Services supports ComEd's scheduling proposal, although it is not opposed to Staff moderating workshops on a unified Illinois market index alternative.

Wherefore, PE Services recommends that the PEPO: 1) exclude HEPO language requiring ComEd to keep its Rider PPO-NFF in place indefinitely; 2) include language supporting and adopting the MEC-CMS Marketing transition proposal; 3) remain unchanged with respect to the HEPO requiring the PPO-MI include a May 2001 sunset provision; and, 4) include language stating it is an interim order and establishing a schedule for reviewing and modifying the ComEd Rider PPO-MI by May 2001.

Dated at Chicago, Illinois this 25th day of April 2000.

Respectfully submitted,

PEOPLES ENERGY SERVICES CORPORATION

By Timothy P. Walsh
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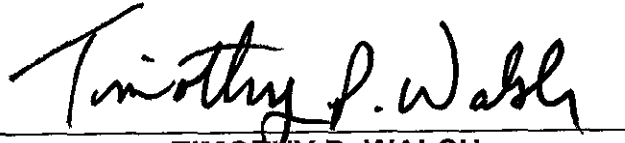
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served this Peoples Energy Services Corporation Reply to Briefs on Exceptions of by electronic mail and by placing a copy thereof in the United States mail with first class postage affixed, addressed to each of the parties of record in Ill.C.C. Docket No. 00-0259.

Dated at Chicago, Illinois this 25th day of April 2000.

By

A handwritten signature in black ink, reading "Timothy P. Walsh", written over a horizontal line.

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